

Senate Engrossed House Bill

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
Second Regular Session  
2004

CHAPTER 212

# HOUSE BILL 2565

AN ACT

AMENDING SECTION 36-831, ARIZONA REVISED STATUTES; RELATING TO BURIAL  
RESPONSIBILITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-831, Arizona Revised Statutes, is amended to  
3 read:

4 36-831. Duty to bury body of dead person; failure to perform  
5 duty; definitions

6 A. Except as provided pursuant to subsection F, the duty of burying  
7 the body of or providing other funeral and disposition arrangements for a  
8 dead person devolves in the following order:

9 1. If the dead person was married, on the surviving spouse.

10 2. If the dead person was a minor, on the parents.

11 3. If the dead person has no surviving spouse, on the adult children  
12 of the dead person.

13 4. If none of the persons named in paragraphs 1, 2 and 3 of this  
14 subsection are financially capable of providing for the burial or other  
15 funeral and disposition arrangements, or cannot be located on reasonable  
16 inquiry, on any person or fraternal, charitable or religious organization  
17 willing to assume responsibility.

18 B. If none of the persons named in subsection A is willing or  
19 financially able to bury or provide other funeral and disposition  
20 arrangements for a dead person, the county in which death occurs shall bury  
21 or place in a permanent care crypt the dead body or cremated remains of a  
22 dead body unless otherwise directed by a person named in subsection A,  
23 paragraph 1, 2 or 3, or by the written testamentary instruction of the  
24 decedent.

25 C. IF THE COUNTY MEDICAL EXAMINER OR PERSON PERFORMING THE DUTIES OF  
26 THE COUNTY MEDICAL EXAMINER KNOWS THAT THE DEAD PERSON IS A MEMBER OF A  
27 FEDERALLY RECOGNIZED NATIVE AMERICAN TRIBE LOCATED IN THIS STATE, THE COUNTY  
28 MEDICAL EXAMINER OR PERSON PERFORMING THE DUTIES OF THE COUNTY MEDICAL  
29 EXAMINER MUST NOTIFY THE TRIBE AND GIVE THE TRIBE THE OPPORTUNITY TO PROVIDE  
30 FOR THE PERSON'S BURIAL OR OTHER FUNERAL AND DISPOSITION ARRANGEMENTS. IF  
31 AN AUTOPSY IS REQUIRED BY SECTION 11-597, THE COUNTY MEDICAL EXAMINER OR  
32 PERSON PERFORMING THE DUTIES OF THE COUNTY MEDICAL EXAMINER SHALL, IF  
33 POSSIBLE, COMPLETE THE AUTOPSY AND RETURN THE REMAINS TO THE FEDERALLY  
34 RECOGNIZED NATIVE AMERICAN TRIBE LOCATED IN THIS STATE WITHIN FOUR CALENDAR  
35 DAYS AFTER THE DETERMINED DATE OF DEATH.

36 ~~C.~~ D. A person on whom the duty prescribed in subsection A is imposed  
37 who omits to perform that duty within a reasonable time or is prohibited from  
38 performing that duty under subsection F- G is liable to the person performing  
39 the duty in an amount of two times the expenses the person incurred in  
40 providing for the burial or other funeral and disposition arrangements. The  
41 person who performs this duty may recover this amount in a civil action.

42 ~~D.~~ E. Notwithstanding the probate requirements of title 14, if a  
43 county is required to bury a person pursuant to subsection B, the county may  
44 recover the burial costs from the decedent's estate. A financial institution  
45 in possession of monies in an account in the decedent's name must reimburse

1 the county for the burial costs on presentation by the county of an affidavit  
2 that certifies:

- 3 1. The date of the decedent's death.
- 4 2. That pursuant to this section, the county performed the decedent's  
5 burial.
- 6 3. The total burial costs incurred by the county.

7 ~~E.~~ F. A person, a corporation or an agency of government that  
8 provides for the burial or other funeral and disposition arrangements on the  
9 instructions of a person described in subsection A is immune from civil  
10 liability:

11 1. For failing to honor the wishes of the decedent or the wishes of  
12 a person having a higher priority in subsection A or B if the person,  
13 corporation or agency of government was not aware, after reasonable inquiry,  
14 of the contrary wishes.

15 2. For refusing to follow conflicting directions of persons having the  
16 same priority in subsection A.

17 3. For following directions of a personal representative that are  
18 consistent with the written testamentary instructions of the decedent.

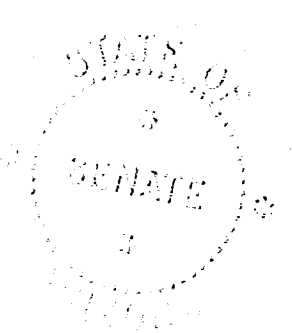
19 ~~F.~~ G. The duty to bury or to provide other funeral and disposition  
20 arrangements devolves to the next person in the order prescribed pursuant to  
21 subsection A if the person who is otherwise responsible for performing this  
22 duty is charged with the criminal death of the person to whom the duty is  
23 owed. The person who performs this duty may recover costs as prescribed in  
24 subsection ~~E~~ D. If the charges against the person on whom this duty  
25 originally fell are subsequently dismissed or are resolved in that person's  
26 favor on the merits, the person is responsible for only the actual costs.

27 ~~G.~~ H. For purposes of this section, "person" includes a natural  
28 person, A corporation, A company, A partnership, A firm, AN association, A  
29 society, the United States, this state, or any territory, state or country,  
30 AN ARIZONA FEDERALLY RECOGNIZED NATIVE AMERICAN TRIBE, or any political  
31 subdivision of this state, or a public or private corporation, or  
32 partnership or association.

33 I. FOR THE PURPOSES OF THIS ARTICLE, "BURIAL" INCLUDES CREMATION.

APPROVED BY THE GOVERNOR MAY 10, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2004.



Passed the House March 16, 2004

Passed the Senate April 26, 2004

by the following vote: 58 Ayes,

by the following vote: 21 Ayes,

1 Nays, 1 Not Voting

9 Nays, 0 Not Voting

Jake Flake  
Speaker of the House

John Blumenthal  
President of the Senate

Norman L. Moore  
Chief Clerk of the House

Charmine Billington  
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

H.B. 2565

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

May 4, 2004,

by the following vote: 51 Ayes,

1 Nays, 8 Not Voting

Jake Flake  
Speaker of the House  
Norman L. Syron  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

4th day of May, 2004

at 4:45 o'clock P. M.

Jennifer Upbarra  
Secretary to the Governor

Approved this 10 day of

May, 2004,

at 11<sup>35</sup> o'clock A. M.

J. N. ...  
Governor of Arizona

H.B. 2565

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 10 day of May, 2004,

at 1:22 o'clock P. M.

Janice K. Brewer  
Secretary of State